IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4067 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANISH OIL MILLS - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR KARTIK V PANDYA for Petitioner(s) : 1,
MR HEMANG PARIKH, AGP for Respondent(s) : 1,2, 3.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 26/06/2007

ORAL JUDGMENT

The petitioner's goods were seized by respondents in the year 1987. Against the same, the petitioner had preferred Special Civil Application

No. 4754 of 1987 before this Court. In the said proceedings this Court had directed the goods to be released upon the petitioner furnishing surety. In view of the said direction, the petitioner had withdrawn the said petition and the goods were released. In the said proceedings, later on the petitioner filed Misc. Civil Application 1970 of 2004 for change of surety and this Court granted the permission for change of surety. It is the grievance of the petitioner that before the Collector i.e., respondent no. 2 the confiscation proceedings under the provisions of the Essential Commodities Act in respect of the commodity in question i.e., edible oil were initiated way back in the year 1987, but till this date no decision is taken thereon.

2. I have heard Mr. Kartik Pandya, learned advocate for the petitioner and Mr. Hemang Parikh, Ld. AGP for the respondents. Mr. Parikh draws my attention to an order issued by the Food Civil Supplies and Consumer Affairs Department, Gandhinagar, dated 11/12/2003 under the provisions of the Essential Commodities Act, which states that with the coming into effect of this order, any dealer may freely buy, stock, sell, transport, distribute, dispose, acquire, use or consume any quantity of wheat, paddy/rise, coarsegrains, sugar, edible oilseeds and edible oils and shall not require a permit or licence therefor under any order issued under the Essential Commodities Act, 1955. This order has to take effect notwithstanding anything to the contrary in any order made by the State Government before the commencement of this order except as respects anything done or omitted to be

done, thereunder before such commencement. Copy of the said order is taken on record of the petition.

3. In view of the aforesaid, it clearly appears that the commodities mentioned in the order have been made free and they are not subjected to any permit or licence. In view of it, respondent no. 2 is now directed to take appropriate decision in the proceedings of the petitioner on or before 31st July, 2007 and intimate the decision to the petitioner.

With the aforesaid direction, the petition stands disposed of. Rule is discharged. D S permitted.

[Akshay H Mehta, J.]

* Pansala.